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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re D.W., a Person Coming Under the
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

C.W.,

Defendant and Appellant.

E057650

(Super.Ct.No. SWJ010567)

OPINION

APPEAL from the Superior Court of Riverside County. John M. Monterosso,
Judge. Reversed with directions.

Karen J. Dodd, under appointment by the Court of Appeal, for Defendant and
Appellant.

Pamela J. Walls, County Counsel, and Anna M. Deckert, Deputy County Counsel,
for Plaintiff and Respondent.

C.W. (father), the father of D.W., appealed from a judgment terminating his parental rights as to D.W. (Welf. & Inst. Code, § 366.26.) Father filed an opening brief contending that the juvenile court failed to adequately comply with the inquiry and notice requirements of the Indian Child Welfare Act (ICWA). (25 U.S.C. § 1901 et seq.; Cal. Rules of Court, rule 5.480 et seq.) On May 28, 2013, the parties filed a joint application and stipulation for reversal of judgment and remand. After our own careful review of the entire record, we conclude that the juvenile court did fail to adequately comply with the inquiry and notice requirements of ICWA, and we reverse with the requested directions.

FACTS

The child was detained on June 24, 2010. The detention report noted that appellant said he may have Apache and Cheyenne Indian ancestry and that Sitting Bull was his great-grandfather. At the detention hearing, father informed the juvenile court his great-grandfather was Seminole and his mother was Cheyenne and Apache. The juvenile court ordered father to complete an ICWA 020 form. On August 17, 2010, the San Bernardino Children and Family Services (CFS) filed a copy of an ICWA notice that listed only Apache and Cheyenne tribes. It also incorrectly listed C.W.'s father as Lois S., residing in Springfield, Missouri; and listed C.W.'s mother as Marjorie S. residing in Sydney, Ohio. It did not list any other paternal relatives.

At the jurisdiction/disposition hearing held August 20, 2010, the paternal grandfather, Lloyd W., told the court that his father had Cherokee ancestry and his mother had Cheyenne and Apache ancestry. The court requested that father and

grandfather meet with the social worker after the hearing to discuss their Indian ancestry. Father repeated this information to the court at a hearing on October 14, 2010.

The ICWA notice filed November 20, 2010, was sent to a number of Apache, Cheyenne and Cherokee tribes. The form again listed C.W.'s mother. It listed C.W.'s father as Larry W., rather than Lloyd W., and provided a birth date and city of birth for him. It listed C.W.'s maternal grandmother as Lois S. The form did not list C.W.'s paternal grandparents, even though CFS knew paternal grandmother's name.

At a hearing held December 8, 2010, the court found that ICWA might apply to this case. The case was then transferred to Riverside County. The Riverside County juvenile court determined there was reason to believe the child had Indian ancestry.

Riverside County Department of Public Social Services (DPSS) filed on June 2, 2011, a notice sent to a number of Apache, Cherokee, Cheyenne, and Yavapai Tribes. The form listed C.W.'s mother and maternal grandmother, incorrectly named C.W.'s father and did not list C.W.'s paternal grandparents.

In the report filed January 5, 2012, for the 12-month review hearing, DPSS recommended that the court find that ICWA did not apply. The court found that ICWA did not apply.

The court terminated father's parental rights at the Welfare and Institutions Code section 366.26 hearing held November 26, 2012.

STIPULATION

A stipulated reversal under Code of Civil Procedure section 128, subdivision (a)(8) is permissible in a dependency case when the parties agree that reversible error

occurred, and the stipulated reversal will expedite the final resolution of the case on the merits. (*In re Rashad H.* (2000) 78 Cal.App.4th 376, 380-382.) In the stipulation, the parties agree that insufficient notice was provided under the provisions of ICWA and that reversal of the judgment is appropriate with directions to the juvenile court to make a proper ICWA inquiry. Notice under ICWA must contain sufficient information to determine the child's direct ancestors. (Welf. & Inst. Code, § 224.2, subd. (a)(5); *In re Francisco W.* (2006) 139 Cal.App.4th 695, 703.) Reversal is therefore appropriate given the Department's and juvenile court's failure to provide adequate ICWA notice. (See e.g., *In re A.B.* (2008) 164 Cal.App.4th 832, 839.) Although only father appealed, the parental rights termination order must be reversed as to both mother and father. (*In re Mary G.* (2007) 151 Cal.App.4th 184, 208.)

DISPOSITION

The order terminating parental rights is reversed as to both parents.

The juvenile court is directed to order the Department to provide adequate notice that contains information concerning father's relatives pursuant to the provisions of ICWA. If after proper notice and inquiry, a tribe determines that D.W. is an Indian child as defined by ICWA, the juvenile court is directed to conduct a new Welfare and Institutions Code section 366.26 hearing in conformity with the provisions of ICWA. If there is no response or the tribes determine that D.W. is not an Indian child, the juvenile court is directed to reinstate all previous findings and terminate parental rights.

Pursuant to the parties' stipulation, the clerk of this court is directed to issue the remittitur immediately. (Cal. Rules of Court, rule 8.272(c)(1).)

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RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

McKINSTER
J.